

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

League of United Latin American Citizens –)	
Richmond Region Council 4614 et al.,)	
))	
Plaintiffs,))	
))	
v.)) Civil Action No. 1:18-cv-00423-LO-IDD	Civil Action No. 1:18-cv-00423-LO-IDD
))	
PUBLIC INTEREST LEGAL))	
FOUNDATION, an Indiana Corporation,))	
and J. CHRISTIAN ADAMS,))	
))	
Defendants.))	
))	

**DECLARATION OF GENEVIEVE NADEAU IN SUPPORT OF PLAINTIFFS'
MOTION TO RE-OPEN THE DEPOSITION OF DEFENDANT ADAMS**

I, Genevieve Nadeau, state and declare as follows:

1. I am counsel for Plaintiffs in this case through The Protect Democracy Project and make this declaration in support of Plaintiffs' motion to re-open the deposition of Defendant J. Christian Adams.

2. On December 10, 2018, Plaintiffs issued First Requests for Production of Documents to Defendants PILF and Adams pursuant to Rule 34. Attached hereto as Exhibits A and B, respectively, are true and correct copies of those requests.

3. Despite repeated efforts by Plaintiffs, Defendant Adams finally produced a total of only 62 documents on February 12th, forcing Plaintiffs to file a motion to compel on February 15th. After the Court granted the motion, Defendant Adams produced 561 additional documents (and Defendants later collectively produced many more documents).

4. Plaintiffs issued an initial subpoena for documents, and then another subpoena for documents and testimony to the co-author of the *Alien Invasion* reports, the Virginia Voters Alliance, on December 6, 2018, and February 14, 2019, respectively. Attached hereto as Exhibits C and D are a true and correct copies of those subpoenas.

5. After missing the initial deadline for production set forth in the first subpoena, VVA produced documents on February 8th, followed by subsequent additional productions on March 11th, March 29th, and April 2nd. Reagan George appeared for deposition on behalf of VVA on March 15, 2019. Attached hereto as Exhibits E through H are true and correct copies of documents (bates stamped VVA-004178, 004157, 004154-56, and 004148) that VVA produced prior to the deposition that indicate that Defendant Adams assisted and/or coordinated with VVA in its response to Plaintiffs' subpoena.

6. On May 3, 2019, and without any prior notice, VVA produced a privilege log indicating that it previously withheld 439 documents as supposedly privileged. After the parties met and conferred, VVA withdrew its claim of privilege and produced the documents on May 9, 2019. Attached hereto as Exhibits I through K are true and correct copies of additional documents (bates stamped VVA-004202-4204, PILF-ADAMS00049650-52, and VVA-004376) that VVA produced on May 9th (along with an origin redacted version of one of the documents that Defendants earlier produced).

7. In their Rule 26 initial disclosures, Defendants identified PILF board member Hans von Spakovsky as an individual likely to have discoverable information that Defendants might use to support their claims in this litigation. In addition, it is clear from his deposition testimony and the fact that his name appears a number of times on Defendants' privilege log that Mr. von Spakovsky has been actively involved in PILF's work.

8. On January 31, 2019, Plaintiffs issued a subpoena for documents to Mr. von Spakovsky. Attached hereto as Exhibit L is a true and correct copy of the subpoena.

9. Mr. von Spakovsky produced documents on March 1st and 22nd, and then finally appeared for deposition on May 9, 2019, after rescheduling multiple times at the last-minute request of his counsel (as evidenced by multiple amended deposition notices issued on March 28, April 12, and April 29). During the deposition, Plaintiffs learned for the first time that Mr. von Spakovsky had withheld all communications with Defendants Adams and others at PILF in response to his subpoena and that he failed to take any steps to preserve potentially relevant communications after the complaint in this case was filed. Attached hereto as Exhibit M are true and correct copies of relevant excerpts of the “rough” transcript of Mr. von Spakovsky’s deposition (the final transcript is not yet available).

10. On March 29, 2019, Defendants issued a subpoena for documents and testimony to one-time PILF volunteer Steven Albertson. Attached hereto as Exhibit N is a true and correct copy of that subpoena.

11. Mr. Albertson produced documents just after 4:30 p.m. on May 10, 2019. He then appeared for deposition on May 14, 2019. Attached hereto as Exhibit O are true and correct copies of relevant excerpts of the transcript of Mr. Albertson’s deposition with personally identifying information redacted.

12. Attached hereto at Exhibits P through S are true and correct copies of communications with Defendant Adams that Mr. Albertson produced in response to his subpoena (bates stamped SA-001-000529-532, 000526-528, 001071-1076, and 001501, and with personally identifying information redacted)—documents that Defendant Adams had not previously produced.

13. After Defendant Adams's deposition, Plaintiffs subpoenaed and received documents from third-party fundraising organizations used by PILF and identified by Defendant Adams in his deposition, including ForthRight Strategies and A.C. Fitzgerald. These documents reveal that tens of thousands of dollars of donations were made to PILF in response to direct-mail solicitations that expressly reference PILF's claims about noncitizen voting in Virginia and/or the instant lawsuit. After receiving these third-party documents, Plaintiffs followed up on previous requests for documentary evidence from PILF regarding its fundraising efforts, only to be told in response that PILF does not HAVE any such information. When Plaintiffs sought clarification attempting to reconcile the documentary evidence of responsive donations to PILF with PILF's assertion that it does not have any information concerning funds raised in reference to the *Alien Invasion* reports or this lawsuit, Defendants simply insisted that no such data are in its possession, ultimately furnishing a bare-bones affidavit to that effect from PILF employee Shawna Powell. Attached hereto as Exhibit T is a true and correct copy of that affidavit.

14. Attached hereto as Exhibits U and V, respectively, are true and correct copies of the transcript of the deposition of Defendant Adams as PILF's corporate designee (on April 18, 2019) and as an individual (on April 22, 2019).

15. On May 15, 2019, I wrote to Michael Lockerby, counsel for Defendants, to ask that Defendants agree to allow Plaintiffs to re-open the deposition of Defendants Adams. A true and correct copy of that letter is attached hereto as Exhibit W.

16. The parties then spoke by phone on May 16, 2019. During that call, Mr. Lockerby made clear that Defendant Adams will not voluntarily agree to allow Plaintiffs to re-open his deposition for any length of time.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
May 17, 2019, at Boston, Massachusetts.

Genevieve Nadeau
Genevieve Nadeau

CERTIFICATE OF SERVICE

I, Christopher S. Herlihy, hereby certify that on May 17, 2019, I electronically filed the foregoing Declaration of Genevieve Nadeau In Support of Plaintiffs' Motion to Re-Open the Deposition of Defendant Adams using the CM/ECF system, which shall send notification of such filing (NEF) to the following counsel of record:

Michael J. Lockerby, Esq.
Foley & Lardner LLP
3000 K Street, N.W. | Suite 600
Washington, DC 20007
mlockerby@foley.com

Counsel for Defendants

Matthew E. Kelley, Esq.
Ballard Spahr LLP
1909 K Street, NW | 12th Floor
Washington, DC 20006
kelleym@ballardspahr.com

Counsel for Defendant J. Christian Adams

/s/
CHRISTOPHER S. HERLIHY (VSB No. 93558)
1440 New York Ave. NW
Washington, DC 20005
Telephone: (202) 371-7293
Facsimile: (202) 661-8293
Christopher.Herlihy@probonolaw.com

*Counsel for Plaintiffs League of United Latin American Citizens – Richmond Region Council
4614, Eliud Bonilla, Luciana Freeman, Abby Jo Gearhart*